

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Charles E. Taylor and Jim L. Lee

Title: AIR TREATMENT DEVICE HAVING MULTIPLE DOWNSTREAM ELECTRODES

Application No.:	10/074,209	Filed:	February 12, 2002
Patent No.:	7,695,690	Issued:	April 13, 2010
Examiner:	Thao T. Tran	Group Art Unit:	1794
Atty. Docket No.:	149-0007-3	Confirmation No.:	4379

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REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT (37 C.F.R. § 1.705(d))

Reconsideration of the patent term adjustment indicated in the Letters Patent is hereby requested under 37 C.F.R. § 1.705(d).

This request is being filed within two months of the issue date of the patent. The fee set forth in 37 C.F.R. § 1.18(e) (\$200.00) is submitted herewith.

This Request for Reconsideration is being filed in view of Wyeth v. Kappos, No. 2009-1120, (Fed. Cir. Jan. 7, 2010).

Statement of Facts:

1. The patent term adjustment indicated in the Letters Patent is 355 days.
2. The correct patent term adjustment is 509 days. That amount includes 216 days under 37 CFR § 702(a), plus 732 days under 37 CFR § 1.702(b), less 439 days of applicant delay under 37 CFR § 1.704.
3. The relevant dates are:

Filing Date	Delay under 37 CFR §1.702(a)	Delay under 37 CFR § 1.702(b) (3rd anniversary from filing to first RCE)	Delay under 37 CFR § 1.704 Applicant Initiated Delay
Feb. 12, 2002	First Office Action Nov. 14, 2003 (+216)	Feb. 13, 2005 – Feb. 14, 2007 (+732)	
			Applicant Response to Notice of Missing Parts June 11, 2002 (-5)
			First Office Action Nov. 14, 2004 Applicant Response Apr. 16, 2004 (-62)
			Supplemental Information Disclosure Statement Apr. 19, 2004 (-3)
			Final Office Action Mar. 13, 2006 Applicant Response RCE Feb. 14, 2007 (-91)

			Supplemental Information Disclosure Statement Sept. 7, 2007 (-31)
			Final Office Action Apr. 18, 2008 Applicant Response RCE Oct. 20, 2008 (-94)
			Non-Final Office Action Jan. 22, 2009 Applicant Response July 21, 2009 (-90)
			Applicant Rule 1.312 Amendment submitting drawings Feb. 10, 2010 Patent Issuance Apr. 13, 2010 (-63)
Total Delay	216	732	439

4. The present PTO calculation does not include 154 days of the total delay under 37 CFR § 1.702(b). In view of Wyeth v. Kappos, correction of the patent term adjustment is respectfully requested.
5. This patent:
- ☒ is not subject to a terminal disclaimer.
- ☐ is subject to a terminal disclaimer, and the expiration date specified in the terminal disclaimer is n/a.
6. As to circumstances during the prosecution of this application, resulting in the patent that constitutes a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704:
- ☐ there were none.
- ☒ these were as follows: Applicant Response to Notice of Missing Parts mailed March 6, 2002 received in the U.S. PTO on June 11, 2002 resulted in a 5 day Applicant

delay; Applicant Response to non-final Office Action mailed November 14, 2003 received in the U.S. PTO on April 16, 2004 resulted in 62 day Applicant delay; Supplemental Information Disclosure Statement received in the U.S. PTO on April 19, 2004 resulted in 3 day Applicant delay; Response to final Office Action mailed on March 13, 2006 received in U.S. PTO on February 14, 2007 resulted in 91 day Applicant delay; Supplemental Information Disclosure Statement received in U.S. PTO on September 7, 2007 resulted in a 31 day Applicant delay; Response to final Office Action mailed April 18, 2008 received in the U.S. PTO on October 20, 2008 resulted in a 94 day Applicant delay; Response to non-final Office Action mailed January 22, 2009 received in U.S. PTO on July 21, 2009 resulted in a 90 day Applicant delay; Rule 1.312 Amendment filed after Notice of Allowance to submit replacement drawings resulted in a 63 day Applicant delay.

The Total Fee for this paper (\$200.00) is paid as follows:

The Fee set forth in 37 C.F.R. § 1.18(e) (\$200.00), required by 37 C.F.R. § 1.705(b)(1), is paid as follows:

- ☐ a check is enclosed for (or including) this Fee.
- ☐ please charge this Fee to Deposit Account 50-0631
- ☒ please charge this Fee to credit card via Electronic Filing System.
- ☒ The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. § 1.16 or 1.17 that may be required during the pendency of this application, and to similarly credit any overpayment, to Deposit Account 50-0631.

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that, on the date shown below, this correspondence is being

- ☐ deposited with the US Postal Service with sufficient postage as first class mail in an envelope addressed as shown above.
- ☐ facsimile transmitted to the USPTO.
- ☒ transmitted using the USPTO electronic filing system.

Kirk Dorius
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5-7-10
Date

Respectfully submitted,

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